

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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JOSE BENITEZ,

Plaintiff,

- against -

**REPORT AND  
RECOMMENDATION**

11 CV 420 (JBW)

P.O. PAUL SCOCCA, et al.,

Defendants.

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By letter dated November 21, 2011, plaintiff's counsel indicated that he has been unable to contact his client to convey the offer of settlement. (Docket Entry 18). Plaintiff's counsel indicated that he lost touch with his client, Mr. Benitez, after Mr. Benitez was deported to Mexico in approximately June 2011. (Id.) Since that time, plaintiff's counsel has made considerable efforts to locate and contact his client in Mexico. Plaintiff's counsel has also made attempts to contact plaintiff's family members who plaintiff had indicated live in the United States. (Id.) Based on plaintiff's counsel's representations, by Report and Recommendation dated December 16, 2011, this Court recommended that if plaintiff failed to contact counsel by February 17, 2012, this Court would respectfully recommend that plaintiff's case be dismissed.

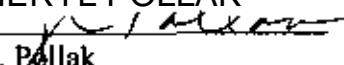
By letter dated March 2, 2012, plaintiff's counsel indicated that all efforts he had made to resume contact with his client and his client's family, "which have been considerable," have been unsuccessful. (Docket Entry 20). As a result, plaintiff's counsel has been unable to communicate the settlement offer to his client and the case has stalled for over eight months. (Id.)

Accordingly, this Court respectfully recommends that the case be dismissed for failure to prosecute. Any objections to this Report and Recommendation must be filed with the Clerk of the Court, with a copy to the undersigned, within fourteen (14) days of receipt of this Report. Failure to file objections within the specified time waives the right to appeal the District Court's order. See 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 6(a), 72(b); Small v. Sec'y of Health and Human Servs., 892 F.2d 15, 16 (2d Cir. 1989).

The Clerk is directed to send copies of this Order to the parties either electronically through the Electronic Case Filing (ECF) system or by mail.

**SO ORDERED.**

Dated: Brooklyn, New York  
March 12, 2012

/S/ CHERYL POLLAK  
  
Cheryl L. Pollak  
United States Magistrate Judge  
Eastern District of New York